

REMARKS

Claims 112-163 were pending in the present application. Claims 117-127, 130-135, 139-142, and 152-163 have been canceled herein without prejudice to their presentation in another application. Claims 116, 128, 129, 136, and 143 have been amended herein. No new matter has been added. Upon entry of the present amendment, claims 112-116, 128, 129, 136-138, and 143-151 will remain pending. **Because the amendments to the claims remove issues for appeal (i.e., indefiniteness and written description), Applicants respectfully request that they be entered into the record. See, M.P.E.P. §714.12.**

As a preliminary matter, Applicants thank the Examiner for indicating that claims 112-115 are allowed. Applicants have amended the remaining pending claims to place them into condition for allowance.

I. The Claims Are Clear And Definite

Claims 123 and 128-131 remain rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Applicants respectfully request reconsideration and withdrawal of the rejection in view of the amendments to the claims and the comments presented below.

The Office Action asserts that in claims 123, 128, and 129 the phrase “analogue of a peptide comprising the amino acid sequence SEQ ID NO:1” is indefinite because it can be read in two ways. Simply because a phrase can be read in two ways does not mean that the phrase is indefinite. Indeed, if one skilled in the art can determine whether particular subject matter is or is not within the scope of either meaning, then the claims are definite -- *In re Mercier*, 185 U.S.P.Q. 774 (C.C.P.A. 1975). Although Applicants disagree with the reasoning set forth in the Final Rejection, solely to advance prosecution of the present application, the claims have been amended to no longer recite analogues. Thus, claim 123 has been canceled, and claims 128 and 129 have been amended to delete the portion reciting analogues. Accordingly, this rejection is rendered moot. In view of the foregoing, Applicants respectfully request that the rejection under 35 U.S.C. §112, second paragraph be withdrawn.

II. The Claimed Invention Is Supported by Ample Written Description

Claims 116-119, 128-131, 136-138, and 143-151 remain rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 117-119, 130, and 131 have been canceled herein. With respect to the remaining rejected claims, Applicants respectfully request reconsideration and withdrawal of the rejection in view of the amendments to the claims and the comments presented below.

The Office Action asserts that recitation of “and other/gliadin/non-gliadin sequence” in claims 116 and 188 and claims dependent thereon (except claim 119) without limiting the other sequence to one that is fused is new matter. Although Applicants disagree with this reasoning, solely to advance prosecution of the present application, the claims have been amended to recite that the non-gliadin sequence is within a fusion protein. Applicants have also amended the claims to no longer recite that the fusion protein is with another gliadin protein even though Applicants, again, disagree with the reasoning set forth in the Final Rejection. Thus, claims 116, 128, and 129 have been amended to delete the portion reciting other gliadin sequences and to recite fusion proteins. Accordingly, this rejection is rendered moot. In view of the foregoing, Applicants respectfully request that the rejection under 35 U.S.C. §112, first paragraph be withdrawn.

III. Conclusion

The pending claims are in condition for allowance. The Examiner is invited to contact Applicants' undersigned representative at (215) 665-6914 if there are any questions regarding Applicants' claimed invention.

Respectfully submitted,

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